

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: ONYX SOFTWARE CORPORATION
SECURITIES LITIGATION

No. C01-1346L

~~PROPOSED~~ ORDER AWARDING
ATTORNEYS' FEES AND
REIMBURSEMENT OF EXPENSES

01-CV-01346-BCST

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ATTORNEYS' FEES AND EXPENSES
No. C01-1346L
1536.10 0023 M/TN.DOC

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1 THIS MATTER having come before the Court on June 10, 2004, on the motion of Lead
 2 Plaintiff for an award of attorneys' fees and reimbursement of expenses incurred in this action,
 3 the Court, having considered all papers filed and proceedings conducted herein, having found the
 4 settlement of this action to be fair, reasonable and adequate, and otherwise being fully informed
 5 in the premises and good cause appearing therefore;

6 IT IS HEREBY ORDERED that:

7 1. All of the capitalized terms used herein shall have the same meanings as set forth
 8 in the Stipulation of Settlement dated February 19, 2004 (the "Stipulation").

9 2. This Court has jurisdiction over the subject matter of this application and all
 10 matters relating thereto, including all members of the Settlement Class who have not timely and
 11 validly requested exclusion.

12 3. The Court hereby awards plaintiffs' counsel attorneys' fees of 20% of the
 13 Settlement Fund after the deduction of litigation expenses awarded herein. The Court hereby
 14 awards plaintiffs' counsel reimbursement of litigation expenses in the amount of \$56,772.37.
 15 The Court further awards interest on the fees and costs awarded herein for the same time period
 16 and at the same rate as that earned on the Settlement Fund until paid. Lead Counsel shall
 17 allocate the fees and costs among plaintiffs' counsel, in good faith, based on a consideration of
 18 the relative contributions of plaintiffs' counsel to the prosecution and resolution of this action.

19 4. The Court finds that an award of attorneys' fees of 20% of the Settlement Fund
 20 after deduction of litigation expenses is fair and reasonable and below the Ninth Circuit's
 21 "benchmark" fee under the "percentage-of-recovery" method. The settlement was obtained
 22 solely through the extensive efforts of plaintiffs' counsel. Plaintiffs' counsel diligently
 23 prosecuted this action for over two years with a substantial risk of no recovery for the Class and
 24 obtained an excellent result. Counsel has received no compensation during the over two years of
 25 litigation and any fee award has always been at risk and completely contingent on the result
 26 achieved. The litigation was complex; it involved unique and substantial issues of law, including

1 the uncertain interpretation and application of the Private Securities Litigation Reform Act of
 2 1995. In addition, the litigation presented difficult questions of proof on such issues as liability
 3 and damages as well as a substantial risk of no recovery. Finally, the institutional Lead Plaintiff
 4 negotiated and supports the fee and expense request before the Court.

5 5. The awarded attorneys' fees and expenses shall be paid to Lead Counsel
 6 immediately after the date this Order is executed subject to the terms, conditions and obligations
 7 of the Stipulation and in particular ¶6 thereof, which terms, conditions and obligations are
 8 incorporated herein.

9 IT IS SO ORDERED.

10 DATED: June 10, 2004


 THE HONORABLE ROBERT S. LASNIK
 UNITED STATES DISTRICT COURT JUDGE

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 12 Submitted by:

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 14 s/ Steve W. Berman

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